

final minutes

Michigan Law Revision Commission Meeting

Wednesday, March 19, 2014 ▪ 12:00 noon
Room 426 ▪ State Capitol Building
100 N. Capitol Avenue ▪ Lansing, Michigan

Members Present:

Richard McLellan, Chair
Tony Derezinski, Vice Chair
Representative Andrew Kandrevas
Representative Tom Leonard
John Strand
George Ward
Judge William Whitbeck

Members Absent and Excused:

Senator Tonya Schuitmaker
Senator Vincent Gregory

I. Convening of Meeting

The Chair called the meeting to order at 12:06 p.m.

II. Roll Call

The roll was taken and absent members were excused. A quorum was present.

III. Approval of December 11, 2013 Meeting Minutes

The Chair asked for a motion to approve the minutes of the December 11, 2013 meeting. No corrections or additions were offered. **Commissioner Strand moved, supported by Judge Whitbeck, to adopt the minutes of the December 11, 2013 Michigan Law Revision Commission meeting. There was no further discussion. The minutes were unanimously approved.**

IV. Approval of February 13, 2014 Meeting Minutes/Notes

The Chair noted that although there was no quorum at the February 13, 2014 meeting, minutes were drafted. He inquired if the members' preference is to officially adopt the proposed notes to have them included in the committee record even though no action or votes were taken at that meeting. **Vice Chair Derezinski moved, supported by Representative Leonard, to approve the proposed notes of the February 13, 2014 meeting. There was no further discussion. The notes were unanimously approved.**

V. Criminal Sentencing and Procedures Project

The Chair called on Vice Chair Derezinski who provided a summary of the project. Vice Chair Derezinski then called on Mr. Carl Reynolds, Senior Legal and Policy Advisor of The Council of State Governments, to begin the presentation. Mr. Reynolds highlighted the findings to date and called on Mr. Andy Barbee, CSG Research Manager, to continue with more in-depth details. A copy of the CSG presentation is attached to these minutes.

VI. Comments from Commissioners

After the presentation, a period of question and answer followed. Chairman McLellan inquired about the submission of the CSG report and whether it will include specific areas the Commission should focus on. Mr. Reynolds affirmed that it would.

Judge Whitbeck queried if CSG anticipates that the report will recommend that Michigan's current structure needs tweaking or if a complete change is required. Mr. Reynolds indicated that it would more than likely just need to be tweaked.

Commissioner Ward commented that having guidelines from other states such as North Carolina would be helpful. Mr. Reynolds responded that the National Center for State Courts 2008 report entitled, "State Sentencing Guidelines, Profiles and Continuum" would be a useful source for this information.

VII. Public Comment

The Chair asked if there were any public comments. Judge William Carmody, Chief Judge of the 11th Circuit Court, provided comments regarding the differences between jail and prison time and the problems with probation and supervision. He added that more resources should be directed for supervision at the local level. There were no other public comments.

VIII. Adjournment

Having no further business, the meeting was adjourned at 2:19 p.m.

(Minutes approved at the May 13, 2014 MLRC Meeting.)

JUSTICE CENTER
THE COUNCIL OF STATE GOVERNMENTS



Sentencing and Justice Reinvestment Initiative



March 19, 2014
Michigan Law Revision Commission

Carl Reynolds, Senior Legal & Policy Advisor
Andy Barbee, Research Manager
Ellen Whelan-Wuest, Policy Analyst

Council of State Governments Justice Center
Justice Reinvestment Partners

- National non-profit, non-partisan membership association of state government officials
- Engage members of all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence

Justice Reinvestment:
a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety.

Partner with Bureau of Justice Assistance and Pew Charitable Trusts



Council of State Governments Justice Center

Michigan's Approach to Sentencing Grounded in Principles of Proportionality and Public Safety

1979 Zalman Study

"Not all sentencing variation should be considered unwarranted or disparate. . . It is only when such variation takes the form of differing sentences for similar offenders committing similar offenses that it can be considered disparate."

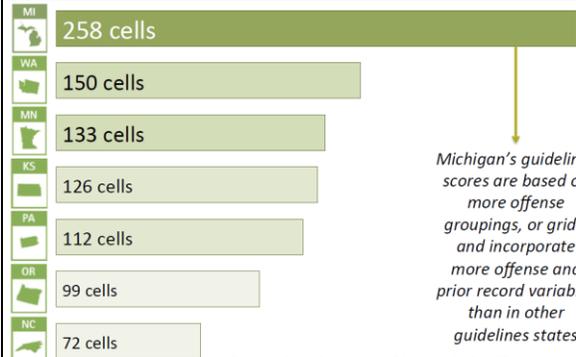
1997 Report of the Sentencing Guidelines Commission

"It is the mission of the Commission, based upon statutory mandates and the collective philosophy of its members, to:

- Develop sentencing guidelines which provide protection for the public, are proportionate to the seriousness of the offense and the offender's public record, and which reduce disparity in sentencing throughout the state."

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Michigan's Guidelines Take Greater Care to Categorize and Score Offenses and Crime Specific Variables



MI	258 cells
WA	150 cells
MN	133 cells
KS	126 cells
PA	112 cells
OR	99 cells
NC	72 cells

Michigan's guidelines scores are based on more offense groupings, or grids, and incorporate more offense and prior record variables than in other guidelines states

Source: State Sentencing Guidelines, Profiles and Continuum, National Center for State Courts, 2008.

Council of State Governments Justice Center

Michigan's Examination of Sentencing, Parole, and Probation Is Fundamentally about Justice and Public Safety



Punishing Consistently
Predictably & Proportionately

Holding Offenders Accountable

Reducing Criminal Behavior

Justice & Public Safety

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Punishing Consistently

Findings to Date:

- Opportunities for significant disparity built into sentencing guidelines
- Significant disparity in actual sentencing for similar cases and between localities
- Minimum prison sentence lengths creeping upward based purely on discretion

Today's Presentation:

- Use of habitual enhancement compounds disparity by "double counting" prior convictions in some, but not all, eligible cases.
- Disparity in minimum sentences can translate into greater disparity in time served for those sentenced to prison.

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Holding Offenders Accountable & Reducing Criminal Behavior

Findings to Date:

- ✓ Sentencing guidelines structure terms of incapacitation, but fail to structure supervision to reduce recidivism and accountability
- ✓ Supervision revocation terms are not structured within the guidelines
- ✓ Swift and certain sanctioning of probation violations dependent on voluntary adoption by courts

Today's Presentation:

- ❑ Guideline cell ranges increase disproportionately to risk.
- ❑ Time served beyond minimum has unclear impact on public safety but greatly increases cost to the State.

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Investing Wisely: Focusing Program Investments to Increase Public Safety

- ❑ Recent efforts to reduce parolee recidivism should be replicated in probation.
- ❑ Lengthy incarceration terms for violators limits resources for reducing violations.
- ❑ Existing state resources funding programs to reduce recidivism should be better targeted.

Improved investments will yield greater accountability and reductions in criminal behavior.

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Section One

Punishing Consistently

Sentencing Enhancements Increase Disparity

- Automatic PRV scoring and discretionary habitual enhancements usually count the same convictions twice.

Sentencing Disparity in Time Served

- Range between minimum and statutory maximum allows for wide discretion in release decision making.
- Similar sentences can result in very different time served.
- Parole decisions consider many of the same factors as sentencing.

Accountability and Reducing Criminal Behavior
Investing Wisely

Council of State Governments Justice Center

Multiple Ways of Counting Prior Felonies Create Disparity

1. Prior record of felony convictions (counted in the PRV) drives the sentencing cell rightward, increasing the lower end of the minimum range.
2. Optional habitual laws: any prior felonies may be counted a second time at sentencing to increase the upper end of the minimum range, widening the already wide standard cell range.
3. Disparity results from the dramatically different application of habitual sentencing by locality and the even wider (yet not always utilized) range it allows.

Source: Sentencing Guidelines Manual, Michigan Judicial Institute, June 2012.

Council of State Governments Justice Center

Sentencing Guidelines Require Scoring of Past Criminality Through Seven Prior Record Variables

7 PRV Questions → PRV questions address things such as prior felony convictions, prior misdemeanor convictions, and prior juvenile adjudications.

❖ *Scoring of these 7 questions slots defendant into one of six PRV Levels on the sentencing grids.*

Using Grid E, OV Level II as an example...

PRV Level A	PRV Level B	PRV Level C	PRV Level D	PRV Level E	PRV Level F
0 Pts	1-9 Pts	10-24 Pts	25-49 Pts	50-74 Pts	75+ Pts
NA	NA	NA	7-23 Mos	10-23 Mos	12-24 Mos

Non-Habitual Minimum Prison Sentence Length (SL) Ranges

Effect is that punishment severity increases based on accumulation of priors.

Source: Sentencing Guidelines Manual, Michigan Judicial Institute, June 2012.

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Defendants with Multiple Prior Felonies Will Typically Fall into Cells with Much More Severe Sentencing Options

2 of the 7 PRV questions already address prior* felony convictions

PRV 1 scores prior high severity felony convictions:
 - 25 pts for 1 prior
 - 50 pts for 2 priors
 - 75 pts for 3+ priors

PRV 2 scores prior low severity felony convictions:
 - 5 pts for 1 prior
 - 10 pts for 2 priors
 - 20 pts for 3 priors
 - 30 pts for 4+ priors

3 Prior High Severity Felonies = PRV Level F

* Must fall w/in a 10 year gap rule.

PRV Level A	PRV Level B	PRV Level C	PRV Level D	PRV Level E	PRV Level F
0 Pts	1-9 Pts	10-24 Pts	25-49 Pts	50-74 Pts	75+ Pts
NA	NA	NA	7-23 Mos	10-23 Mos	12-24 Mos

Grid E, OV Level II
Non-Habitual Minimum Prison SL Ranges for Grid E, Offense Level II

Prison not an option (absent a departure).

Prison is an option ✓ With a minimum of up to 2 years in prison.

Source: Sentencing Guidelines Manual, Michigan Judicial Institute, June 2012.

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Habitual Sentencing Allows Double Counting of Prior Felony Convictions

Example of defendant with 3 prior felony convictions as an adult:

“10 Year Gap” from the discharge of the sentence for one conviction and the offense date of the next conviction.

Counted in PRV Scoring

Current Conviction

Can be counted toward habitual enhancement

Counted Twice

Source: Sentencing Guidelines Manual, Michigan Judicial Institute, June 2012.
Council of State Governments Justice Center

Double Counting of Prior Felonies Adds Yet Another Layer of Time in Prison

Prior felony convictions can also be used to “habitualize” the defendant for even higher punishment ranges.

PRV Level	PRV Level A	PRV Level B	PRV Level C	PRV Level D	PRV Level E	PRV Level F
Grid E, OV Level II	0 Pts	1-9 Pts	10-24 Pts	25-49 Pts	50-74 Pts	75+ Pts
Non-Habitual Minimum Prison SL Ranges for Grid E, Offense Level II	NA	NA	NA	7-23 Mos	10-23 Mos	12-24 Mos
1 Prior Felony Conviction (HO2)				7-28 Mos	10-28 Mos	12-30 Mos
2 Prior Felony Convictions (HO3)				7-34 Mos	10-34 Mos	12-36 Mos
3+ Prior Felony Convictions (HO4)				7-46 Mos	10-46 Mos	12-48 Mos

Consider two defendants with the same instant offense underlying a new felony conviction:

- Defendant with three prior low severity convictions (20 PRV points) will fall into Column C where prison is not an option.
- Defendant with four prior low severity convictions (30 PRV points) will fall into Column D where prison is an option. Furthermore, the prior convictions can be counted again to double the minimum prison term.

Source: Sentencing Guidelines Manual, Michigan Judicial Institute, June 2012.
Council of State Governments Justice Center

Adding the Layer of Habitual Sentencing Further Increases Already Broad Minimum Prison Sentence Length Ranges

Prison sentence range for most frequently used cell in Michigan’s guidelines (Grid E, PRV-E, OV-II)

Non-Habitual Range
10-23 Months
10 mos + 13 mos
Range = 130%

“Habitualization” further increases the minimum range

Habitual Ranges

- 2nd Time (HO2)
23+25%
10 - 28 mos
10 mos + 18 mos
Range = 180%
- 3rd Time (HO3)
23+50%
10 - 34 mos
10 mos + 24 mos
Range = 240%
- 4th Time (HO4)
23+100%
10 - 46 mos
10 mos + 36 mos
Range = 360%

The cell range (span of possible minimum sentence) goes from 130% to 360%.

Source: Felony Sentencing (BRI) Data 2009-2012, Michigan Dept. of Corrections, Sentencing Guidelines Manual, Michigan Judicial Institute, June 2012.
Council of State Governments Justice Center

Additional Ways that Counting Prior Felonies and Habitual Sentencing Impact Sentencing

When electing to sentence as an habitual offender:

- ✓ Judge may also increase statutory maximum time in prison by 50%, 100% or up to life in prison depending on the habitual offender level.

When counting offenses to use as a fourth offender:

- ✓ Defendant does not have to have had three opportunities to reform; the three priors can arise from a single act or transaction. *People v. Gardner* (2008)

For person, property, and some drug offenses:

- ✓ Offense Variable 13 (Continuing Pattern of Criminal Behavior) scores all crimes within a five-year period, regardless of conviction, to determine a pattern of 3 or more offenses.
 - Scoring of this variable has the effect of moving defendants downward in the grids into more serious punishment ranges.

Source: Sentencing Guidelines Manual, Michigan Judicial Institute, June 2012.
Council of State Governments Justice Center

Unlike PRV Scoring, Application of Habitual Enhancement Is Discretionary

Wide Disparity in Use of Habitual Sentencing Among Top 10 Counties

Percent of Eligible Cases Sentenced as Habitual Offender In 2012 (No. Prison Bound Only)

Wayne
Oakland
Macomb
Kent
Genesee
Washtenaw
Ingham
Ottawa
Kalamazoo
Saginaw

Statewide Average = 42%

Low of 10% of eligible cases in Washtenaw Co.
High of 89% of eligible cases in Oakland Co.

Wide variance in use of the habitual sentencing option guarantees that similar cases will be sentenced in very different ways.

“Sentenced as Habitual Offender” means that the sentence imposed actually fell into the elevated sentence range higher than the next lower level.

Source: Felony Sentencing (BRI) Data 2009-2012, Michigan Dept. of Corrections.
Council of State Governments Justice Center

Cost of Habitual Sentencing Option Is Unpredictable and Potentially Huge

Minimum Prison SL Range – High Utilization Guidelines Cell

Lower	Upper
10 Mos	23 Mos
	28 Mos (HO2)
	34 Mos (HO3)
	46 Mos (HO4)

In 2012, there were over 1,000 defendants eligible to be habitualized at the HO3 level.

- ✓ Statewide, 36% were sentenced at the elevated level of the HO3 ranges.

10% Habitualized

- 900 sentenced to 12 months in prison yields bed demand of 900 per day (\$32M)
- 100 sentenced to 30 months in prison yields bed demand of 250 per day (\$9M)

36% Habitualized

- 640 sentenced to 12 months in prison yields bed demand of 640 per day (\$23M)
- 360 sentenced to 30 months in prison yields bed demand of 900 per day (\$32M)

90% Habitualized

- 100 sentenced to 12 months in prison yields bed demand of 100 per day (\$4M)
- 900 sentenced to 30 months in prison yields bed demand of 2,250 per day (\$80M)

Annual Cost

- \$41M
- \$55M
- \$84M

Source: Felony Sentencing (BRI) Data 2009-2012, Michigan Dept. of Corrections and Corrections Background Briefing, December 2012, House Fiscal Agency.
Council of State Governments Justice Center

Michigan's Sentencing Guidelines Do Not Control Ultimate Length of Stay in Prison

Sentencing guidelines dictate minimum sentence in most cases.

For example, consider a court-imposed sentence of 12 months in prison for the offense of Retail Fraud – 1st Degree (Class E Grid)

Min sentence = 12 months

Max sentence = 60 months (set in statute)

After serving sentence imposed by Court, the Parole Board determines release date.

Inmates with this offense type served an average of 19 months* in prison prior to first release.

- Range of 5 to 80 months.

* Based on 2012 Prison Releases

Period of time controlled by Parole Board usually 300-400% longer than minimum imposed by the Court.

- ❑ This introduces significant opportunity for disparity into the system.

Source: Felony Sentencing (BRI) Data 2009-2012 and Prison Releases Data 2009-2012, Michigan Dept. of Corrections
Council of State Governments Justice Center

Despite Similar Sentence Lengths Imposed by Court, Those Going to Prison Will Spend Much Longer Behind Bars

Time Served Behind Bars for 2008 Cases Sentenced to Terms of Incarceration of 9-15 Months
(*“New” cases only; excludes habitualized cases)

Actual time behind bars for jail-bound no more than one year.

Despite receiving comparable sentences of time behind bars, those who are sent to prison spend up to four times as long behind bars than those sent to jail.

Actual time behind bars for prison-bound often exceeds four years to first release.

Source: Felony Sentencing (BRI) Data 2009-2012 and Prison Releases Data 2009-2012, Michigan Dept. of Corrections
Council of State Governments Justice Center

Similar Sentences Can Result in Very Different Amounts of Time Served

Time Served Behind Bars for 2008 Cases Sentenced to Terms of Incarceration of 9-15 Months
(*“New” cases only; excludes habitualized cases)

Sentence Imposed: 9 to 15 months behind bars

Jail Time Served: 7 to 12 months

Prison Time Served: 3 months to 4 plus years

Avg. Jail sentence imposed = 333 days
Avg. Prison sentence imposed = 375 days

Source: Felony Sentencing (BRI) Data 2009-2012 and Prison Releases Data 2009-2012, Michigan Dept. of Corrections
Council of State Governments Justice Center

Sentencing Guidelines and Parole Formally Consider Many of the Same Factors

Sentencing factors:

- Drugs/alcohol impact
- Psychological impact to victim's family
- Terrorism related

Parole factors:

- Age
- Risk of re-offense
- Conduct in prison
- Performance in programs
- Prison housing status
- Situational crime unlikely to reoccur

Shared factors:

- Criminal history
- Career criminal designation
- Relationship to the criminal justice system
- Aggravating circumstances of this crime
- Aggravating circumstances of past crimes
- Role in crime
- Victim impact and characteristics
- Crime type

Source: Sentencing Guidelines Manual, Michigan Judicial Institute, June 2012, and Michigan Dept. of Corrections Policy Directive 06.05.000 (Parole Guidelines)
Council of State Governments Justice Center

Michigan's Sentencing Structure Undermines Intent to Narrow Discretion and Reduce Disparity

Defendants Convicted of Felony

Guidelines Scoring Process: Narrowing down the offense/offender profile into 1 of 258 cells

- ❑ 9 Different Grids
- ❑ 33 Different "Prior Record Variable" Scoring Choices
- ❑ 76 Different "Offense Variable" Scoring Choices

Defendant is "scored" and awaiting sentencing.

Sentencing Process: Opening up discretion: the narrowing is lost

- ❑ 89% of cases fall in cells with wide-ranging punishment options
- ❑ Very wide prison SL ranges
- ❑ Habitual sentencing double counts past convictions and used inconsistently
- ❑ Actual sentencing disparity present

Release Process:

- ❑ Widely different lengths of stay behind bars for similar cases and imposed sentences.

Source: Council of State Governments Justice Center

Section Summary: Punishing Consistently

Habitual Sentencing Is Discretionary and Not Always Used

But relies on double-counting of prior felonies:

- ❖ Adds more time to already increased sentence ranges
- ❖ Varied use by locality ensures disparate sentencing results

Prison Release Process Makes Time Served Unpredictable

Even among similar sentences:

- ❖ Very different time served outcomes
- ❖ Parole reconsiders many factors already accounted for at original sentencing

Source: Council of State Governments Justice Center

Section Two

Punishing Consistently

Accountability and Reducing Criminal Behavior

- Relationship of Sentencing Guidelines to Recidivism
 - Offense level (OV) and prior record (PRV) as proxies for future criminality
 - Questionable structure for punishment and assignment of supervision
- Impact of Time Served
 - Huge cost to system with unclear public safety outcomes

Investing Wisely

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Sentencing Guidelines Should Be Structured to Support Recidivism Reduction and Public Safety

The "sorting" of the guidelines results in more severe punishment options as the PRV and OV scores increase.

- Do these increasing punishment options increase accountability?
- Do they generate reductions in future criminal behavior?

To what extent are increasing PRV Levels (higher criminal history) related to future criminal behavior?

To what extent are increasing OV Levels (more aggravating offense factors) related to future criminal behavior?

PRV Level	OV Level						Total
	A	B	C	D	E	F	
I	0	0	0	0	0	0	0
II	0	0	0	0	0	0	0
III	0	0	0	0	0	0	0
IV	0	0	0	0	0	0	0
V	0	0	0	0	0	0	0
VI	0	0	0	0	0	0	0

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OV Score Does a Poor Job Predicting Risk of Re-Arrest

Two Year Re-Arrest Rates by OV Level: All Probation and/or Jail Sentences (2008-10 Sentence Cohorts)

Cases in the more serious OV Levels actually have lower re-arrest rates.

- In other words, having more aggravating factors associated with the underlying case is **not** correlated with higher likelihood of recidivism.
- Suggests value of OV scoring is **not** about preventing future crime but more about "just desserts."

Source: Felony Sentencing (BFI) Data 2008-2012, Michigan Dept. of Corrections, and Criminal History Records, Michigan State Police. Council of State Governments Justice Center 27

PRV Score Does a Good Job Predicting Risk of Re-Arrest

Two Year Re-Arrest Rates by PRV Level: All Probation and/or Jail Sentences (2008-10 Sentence Cohorts)

Cases in the more serious PRV levels have higher re-arrest rates.

- In other words, having more criminal history associated with the underlying case is correlated with higher likelihood of recidivism.
- Suggests PRV scoring can be used to help predict future criminality.

Source: Felony Sentencing (BFI) Data 2008-2012, Michigan Dept. of Corrections, and Criminal History Records, Michigan State Police. Council of State Governments Justice Center 28

Guidelines Fail to Structure Supervision In Relation to Future Criminality

Twice as likely to be re-arrested as those in PRV Level A.

There is no connection between the guidelines and imposition of supervision:

- Who gets supervised?
- And for how long?

For example, does it make sense that those in PRV Level A would be supervised for as long as those in PRV Levels D-F?

Does it make sense that those in PRV Levels D-F sentenced to jail would have no supervision after release?

PRV Level	OV Level						Total
	A	B	C	D	E	F	
I	0	0	0	0	0	0	0
II	0	0	0	0	0	0	0
III	0	0	0	0	0	0	0
IV	0	0	0	0	0	0	0
V	0	0	0	0	0	0	0
VI	0	0	0	0	0	0	0

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Sentencing Guidelines Can Result in Time Served that Is Disproportionate to Future Criminality

Twice as likely to be re-arrested as those in PRV Level A.

For Sentences Involving Incarceration:

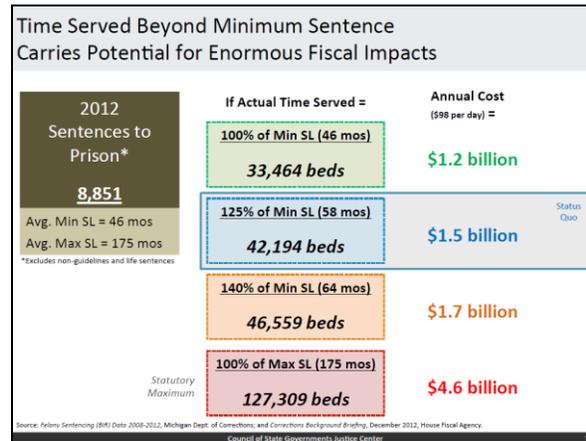
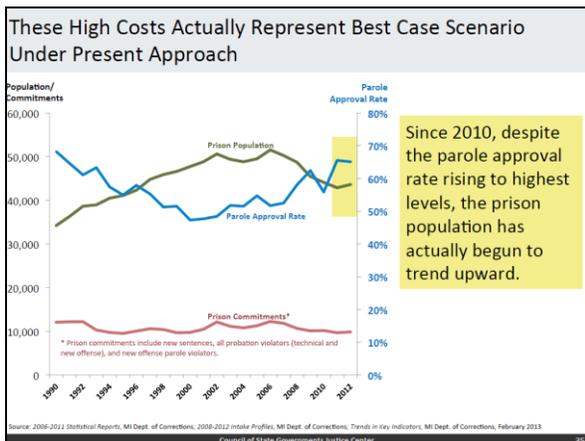
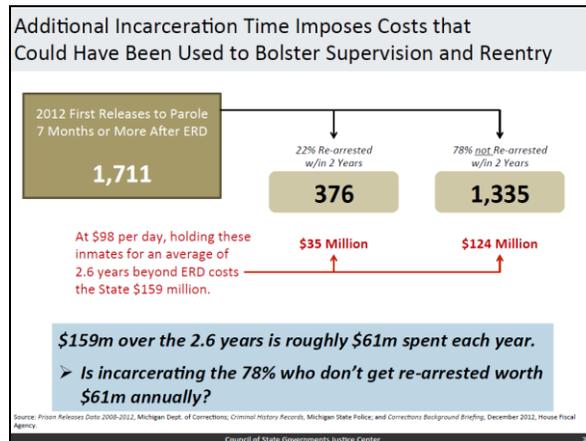
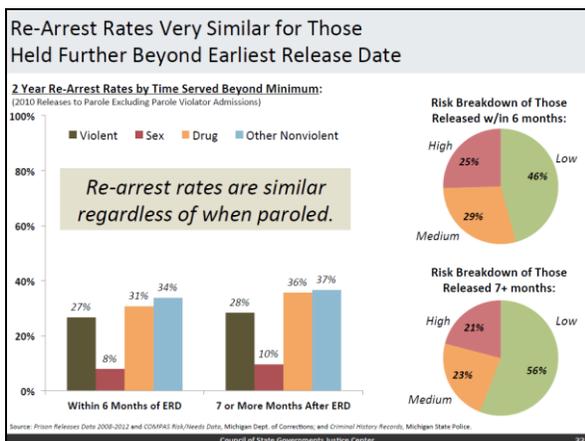
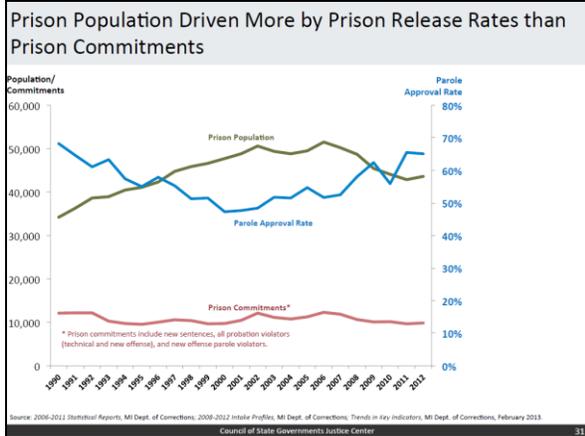
- Time behind bars limited to 1-3 months in jail.
- Time behind bars could be anywhere from 5-60 months in prison.

While the odds of future criminality are 2 times higher, the length of incarceration is 5 to 20 times higher.

PRV A: 25% Re-arrest rate, 1-3 months in jail

PRVs D-F: 46% Re-arrest rate, 5-60 months in prison

Source: Felony Sentencing (BFI) Data 2008-2012 and Prison Releases Data 2008-2012, Michigan Dept. of Corrections, and Criminal History Records, Michigan State Police. Council of State Governments Justice Center 30



Section Summary: Accountability and Reducing Criminal Behavior

Criminal History Predicts Future Recidivism

But guidelines fail to use this strength:

- ❖ No structuring of supervision
- ❖ Sentence length ranges increase disproportionately to increasing risk of recidivism

Most Parole Releases Occur w/in 6 Months of Eligibility

But benefits of holding others longer are unclear:

- ❖ No real difference in recidivism rates
- ❖ High costs of extended incarceration may actually outweigh limited benefits

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Section Three

Punishing Consistently

Accountability and Reducing Criminal Behavior

Investing Wisely

Michigan Has Success Story on Reentry

Targeting of Resources to the Front End

- Why it matters
- Community Corrections and CJRP

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Michigan Has Focused on Reducing Parolee Recidivism and Achieved Nationally Recognized Reductions

Changes Begun in 2005:

- Integration of risk assessment into parole supervision
- Training of field agents in best practices
- Engaging communities
- Increasing funding for community-based programming for parolees
- Targeting supervision resources towards higher risk parolees

Percentage of Parolees Returning to Prison Within 3 Years of Release

Year of Release to Parole	Percentage
2001	42%
2002	40%
2003	40%
2004	41%
2005	40%
2006	38%
2007	37%
2008	35%
2009	33%
2010	29%

Source: 2006-2012 Statistical Reports, MI Dept. of Corrections. Council of State Governments Justice Center 39

Reductions in Parolee Recidivism Hold Up When Analyzed in Terms of Arrests

One Year Parolee Re-Arrest Rates

Year of Release to Parole	Rate
2008	30%
2009	26%
2010	22%
2011	24%

Source: Prison Releases Data 2009-2012, Michigan Dept. of Corrections, and Criminal History Records, Michigan State Police. Council of State Governments Justice Center 40

Felony Probation Outcomes Have Not Improved in the Same Way

One Year Felony Probation Re-Arrest Rates

Year of Probation Placement	Rate
2008	23%
2009	24%
2010	23%
2011	23%

If the felony probationer re-arrest rate from 2008-11 experienced a 20% reduction similar to parole:

❖ **Re-arrest rate would be 18%.**

Source: Felony Sentencing (BPI) Data 2009-2012, Michigan Dept. of Corrections, and Criminal History Records, Michigan State Police. Council of State Governments Justice Center 41

Reducing Probationer Recidivism Could Lower Victimization and Ease the Strain on Local Resources

Total Felony Probation Placements in 2012

29,432

At current re-arrest rates:

23% w/in 1 Year

6,769 Arrests

If probation re-arrest rates had fallen like parole:

18% w/in 1 Year

5,298 Arrests

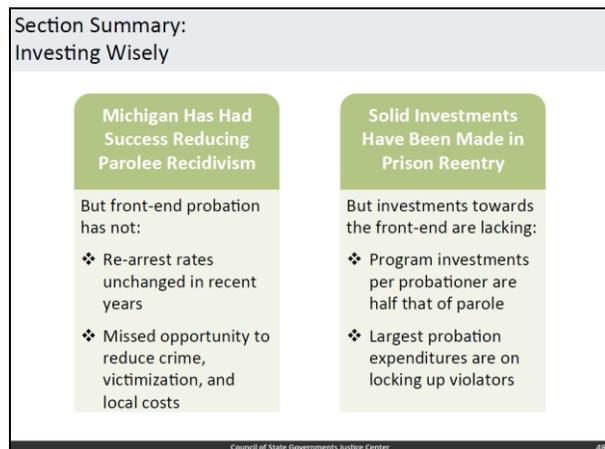
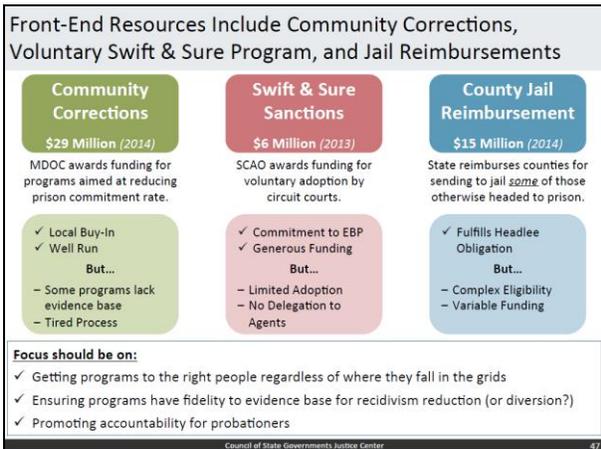
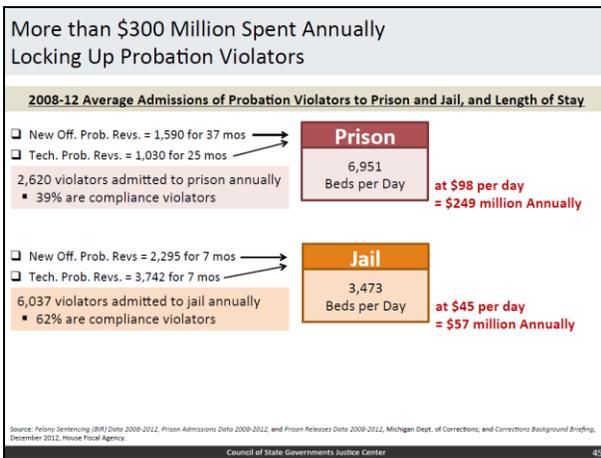
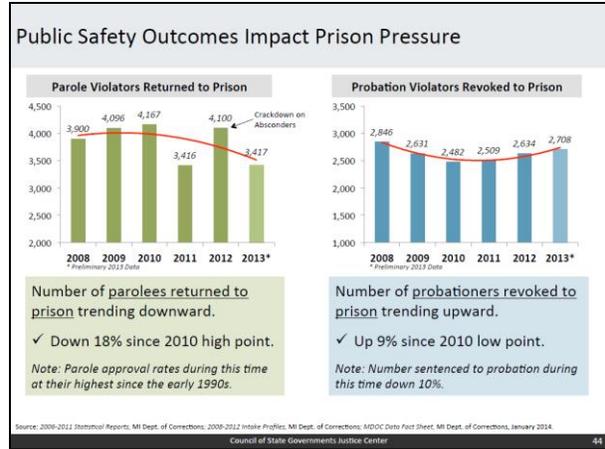
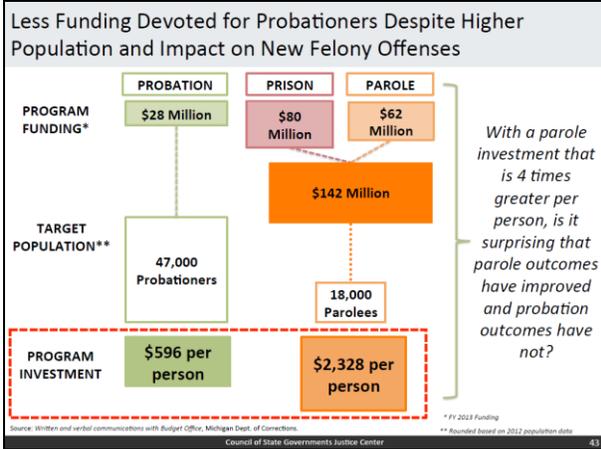
Almost 1,500 fewer arrests...

...and instances of victimization

...and bookings into county jail

...and initiations of court proceedings

Source: Felony Sentencing (BPI) Data 2009-2012, Michigan Dept. of Corrections, and Criminal History Records, Michigan State Police. Council of State Governments Justice Center 42



The Takeaways, June 2013 – March 2014

- Opportunity for disparity built into guidelines
- Actual sentencing reveals disparity in practice
- Habitual sentencing double counts prior felonies
- Time served for similar sentences very different

- Guidelines silent on supervision: Who gets it? How much? Violation Responses?
- Limited adoption of voluntary swift & sure sanctions program
- Sentencing ranges increase disproportionately to risk of recidivism
- Time served often unpredictable and adds unclear public safety value at high cost
- Opportunity to achieve better public safety outcomes at the front end

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Project Timeline Through 2014

Timeline: May 2013, March 2014, April, May, June, July, November, December

Key Milestones:

- MLRC Meetings 1-4 (May 2013)
- Today: MLRC Meeting #5 (March 2014)
- MLRC Meeting #6 & CSG Report (April 2014)
- MLRC Report (July 2014)

Processes:

- Stakeholder Engagement (Green arrow)
- Data Analysis (Yellow arrow)
- Policy Discussions (Green arrow)
- Policy Modeling (Yellow arrow)

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Thank You

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